STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE

INDIANA GOVERNMENT CENTER NORTH
100 NORTH SENATE AVENUE N1058(B)
INDIANAPOLIS, IN 46204
PHONE (317) 232-3777
FAX (317) 974-1629

TO: **All County and Township Assessors**

FROM: **Barry Wood, Assessment Division Director**

RE: **IRS Rule Change Concerning De Minimis Expensing Threshold (UPDATE)**

DATE: **September 20, 2016**

On January 27, 2016, the Department of Local Government Finance ("Department") issued a memorandum (available at http://www.in.gov/dlgf/files/pdf/160127_-_Wood_Memo_-_IRS_Rule_Change_Concerning_De_Minimis_Expensing_Threshold.pdf) concerning the Internal Revenue Service's ("IRS") increase of the maximum threshold from $500 to $2,500 for expensing certain capital items (see IR-2015-133; Notice 2015-82).

The Department advised that a taxpayer may have assets that are written off for purposes of federal income tax reporting, but that must still be reported for Indiana personal property purposes and that taxpayers in this situation should either maintain two sets of books or one set with an added column for assets written off for federal income taxes (fully expensed in their first year [not just equipment held for rent]) but still reportable as personal property.

Subsequent to the release of that memorandum, the Department received a number of questions about its position on this issue. Specifically, the questions alleged that once the election to expense the item is made, the property cannot be depreciated, and thus it is not "depreciable personal property" as that term is defined by 50 IAC 4.2-1-1.1.

In response to these questions, the Department finds that this property is still to be treated as depreciable personal property for the purposes of Indiana personal property taxation.

Personal property "should be or is subject to depreciation" for federal income tax purposes when the personal property is eligible for depreciation such that in ordinary circumstances the personal property is depreciated. Likewise, a federal depreciation deduction is "allowable" for personal property when the personal property (1) is eligible to be depreciated under federal income tax laws and regulations and is not actually depreciated; or (2) is eligible to be depreciated under federal income tax laws and regulations and is actually depreciated. Stated another way, personal property is depreciable personal property under 50 IAC 4.2-4-1(i) when a depreciation deduction is permitted under federal income tax laws and regulations, whether or not the personal property is actually depreciated under said laws and regulations.

Hence, a taxpayer who elects a safe harbor election does not make the personal property to which the exception is applied not depreciable. Rather, the taxpayer has simply chosen not to depreciate the personal property even though the personal property was eligible for depreciation.

In sum, business personal property that has been expensed rather than depreciated as permitted by the IRS is still reportable for purposes of Indiana personal property taxation.

Questions may be directed to Assessment Division Director Barry Wood at bwood@dlgf.in.gov or (317) 232-3762.